

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CLIFFORD W. MILLER,)
vs. Plaintiff,) CASE NO. 3:17-cv-00068-MMD-WGC
vs.) ORDER SCHEDULING SETTLEMENT
ROMEO ARANAS, et al.,) CONFERENCE
Defendant.)

Pursuant to the parties' notice to proceed with settlement conference (ECF No. 80), a settlement conference is hereby scheduled to commence on **THURSDAY, OCTOBER 15, 2020** at **9:00 A.M.**, in Reno Courtroom to be determined, Bruce R. Thompson U.S. Courthouse and Federal Building, 400 South Virginia Street, Reno, Nevada, before U.S. Magistrate Judge Robert A. McQuaid, Jr.

Unless excused by order of the court, clients or client representatives with complete authority to negotiate and consummate a settlement shall be in attendance at the settlement conference. This requires the presence of the client or if a corporate, governmental, or other organizational entity, an authorized representative of the client.

For a defendant, such representative must have final settlement authority to commit the organization to pay, in the representative's own discretion, a settlement amount up to the plaintiff's prayer, or up to the plaintiff's last demand, whichever is lower. For a plaintiff, such representative must have final authority, in the representative's own discretion, to authorize dismissal of the case with prejudice, or to accept a settlement amount down to the defendant's

1 last offer. If board approval is required to authorize settlement, the attendance of at least one
2 sitting member of the board (preferably the chairperson) is absolutely required.

3 Any insurance company that is a party or may be contractually required to defend or to
4 pay damages, if any, assessed within its policy limits in this case must have a fully authorized
5 settlement representative present. Such representative must have final settlement authority to
6 commit the company to pay, **in the representative's own discretion**, an amount within the
7 policy limits, or up to the plaintiff's last demand, whichever is lower.

8 **The purpose of the requirement of personal attendance is to have a representative
9 present who has both the authority to exercise his or her own discretion, and the realistic
10 freedom to exercise such discretion without the negative consequences, in order to settle the
11 case during the settlement conference without consulting someone else who is not present.**

12 In the event counsel for any party is aware of any circumstance which might cast doubt on a
13 client's compliance with this paragraph, he/she shall immediately discuss the circumstance with
14 opposing counsel to resolve it well before the settlement conference, and, if such discussion does
15 not resolve it, request a telephone conference with the court and counsel.

16 Counsel appearing for the settlement conference without their client representatives or
17 insurance company representatives, unless authorized as described above, may cause the
18 settlement conference to be canceled or rescheduled. If this occurs, the non-complying party,
19 attorney or insurer may be assessed the costs and expenses, including attorney fees, incurred by
20 other parties and the court as a result of such cancellation, as well as any additional sanctions
21 deemed appropriate by the court. Counsel are responsible for timely advising any involved non-
22 party insurance company of the requirements of this order.

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1 **I. PREPARATION FOR SETTLEMENT CONFERENCE**

2 Obviously, the conference is intended to facilitate settlement of this case. It will be
3 conducted in such a manner as not to prejudice any party in the event settlement is not reached.
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5 To that end, all matters communicated to the undersigned in confidence will be kept confidential,
6 and will not be disclosed to any other party, or to the trial judge. The undersigned, of course,
7 will not serve as the trial judge in this case.

8 At the settlement conference the parties, by counsel, may be requested to present a brief
9 (5-10 minute) *non-confrontational* presentation outlining the factual and legal highlights of their
10 case. [If the parties believe the initial joint session will be counterproductive, please state so in
11 your respective settlement briefs along with your rationale for same.] Thereafter, separate,
12 confidential caucuses will be held with each party and/or the party's representative(s).

14 **I. PREPARATION FOR SETTLEMENT CONFERENCE**

15 In preparation for the settlement conference, the attorneys for each party shall submit a
16 confidential settlement conference statement for the court's *in camera* review. The settlement
17 conference statement shall contain the following:

- 19 1. A brief statement of the nature of the action.
- 20 2. A concise summary of the evidence that supports your theory of the case, including
21 information which documents your damages claims. You may attach to your statement
22 those documents or exhibits which are especially relevant to key factual or legal issues,
23 including selected pages from deposition transcripts or responses to other discovery
24 requests.
- 25 3. An analysis of the key issues involved in the litigation.
- 26 4. A discussion of the strongest points in your case, both legal and factual, **and a frank**
27 **discussion of the weakest points as well.** The court expects you to present a candid
28 evaluation of the merits of your case.

- 1 5. A further discussion of the strongest and weakest points in your opponents' case, but only
- 2 inf they are more than simply the converse of the weakest and strongest points in your
- 3 case.
- 4 6. An estimate of the cost (including attorney fees and costs) of taking this case through
- 5 trial.
- 6 7. A history of settlement discussions, if any, which details the demands and offers which
- 7 have been made, and the reasons they have been rejected.
- 8 8. The settlement proposal that you believe would be fair.
- 9 9. The settlement proposal that you would honestly be willing to make in order to conclude
- 10 this matter and stop the expense of litigation.

10 The settlement conference statements shall be received in the Clerk's Office, 400 S.
11 Virginia Street, Room 301, not later than **THRUSDAY, OCTOBER 8, 2020, by 4:00 P.M.**

12 **DO NOT SERVE A COPY ON OPPOSING COUNSEL.**

13 The settlement conference statement should be delivered to the Clerk's Office in an
14 envelope clearly marked "Confidential Contains Settlement Brief."

16 The purpose of the settlement conference statement is to assist the court in preparing for
17 and conducting the settlement conference. In order to facilitate a meaningful conference, your
18 **utmost candor** in responding to all of the above listed questions is required. The settlement
19 conference statements will not be seen by the trial judge. The confidentiality of each statement
20 will be strictly maintained in my chambers. Following the conference, the settlement conference
21 statements will be destroyed.

23 Dated this 24th day of August, 2020.



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25 U.S. Magistrate Judge, Robert A. McQuaid, Jr.
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